

STATE OF ARIZONA
40th LEGISLATURE
SECOND REGULAR SESSION

1 his is being interpreted in
Some circles as directed at
The Salt River (Tri-City) Land Fill.
REFERENCE TITLE: solid waste facilities;
siting

HOUSE

HB 2144

Introduced
February 3, 1992

Referred on February 3, 1992

Rules

Environment

Introduced by
Representatives Keegan, Mundell

BILL WILCOX
815 N. HAYDEN RD. #B-16
SCOTTSDALE, AZ 85257-4405

AN ACT

AMENDING SECTIONS 49-762 AND 49-767, ARIZONA REVISED STATUTES; AMENDING
LAWS 1990, CHAPTER 302, SECTION 2; RELATING TO REGULATION OF SOLID WASTE.

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 49-762, Arizona Revised Statutes, is amended to
read:

49-762. Solid waste facility plan approval; exemption

A. Until January 1, 1993, the department shall review and approve
public facility plans which satisfy rules and guidelines adopted by the
director prior to authorizing the construction and operation of a new
public facility. The director shall grant temporary authorization to
operate a new public facility if in his opinion the public facility is
needed immediately and could not be properly planned in advance. The
department shall approve or disapprove plans within ninety days of receipt
of complete plans containing all required supporting documentation. If
plans are rejected, the department shall make available to the proposed
agency a complete written, detailed rationale for disapproval including
recommendations for correcting unacceptable parts of the plans.

B. Any change, modification or other deviation from approved plans
shall be approved by the director before implementation. ANY SUBSTANTIAL
CHANGE TO AN OPERATING OR PREVIOUSLY APPROVED SOLID WASTE FACILITY IS
SUBJECT TO THE PROVISIONS OF SECTION 49-767, SUBSECTION B, PARAGRAPH 3,
RELATING TO APPROVAL BY NEARBY GOVERNING BODIES.

C. The director may suspend, amend, withdraw, condition or revoke
approval to operate a public facility if the director determines that the
public facility is in violation of any rule, standard or guideline adopted
by authority of this chapter. Action taken by the director under this
subsection shall conform with title 41, chapter 6.

D. Beginning January 1, 1993, the department shall review and
approve solid waste facility plans which satisfy rules adopted by the

1 director prior to authorizing the construction and operation of a new
2 solid waste facility. The director shall grant temporary authorization to
3 operate a new solid waste facility if in his opinion the solid waste
4 facility is needed immediately and could not be properly planned in
5 advance. The director, by rule, may exempt from facility plan approval
6 requirements those solid waste facilities that are located in
7 unincorporated areas and are used only for disposal by a single family
8 residence located on the same property. The department shall approve or
9 disapprove plans within ninety days of receipt of complete plans
10 containing all required supporting documentation. If plans are rejected,
11 the department shall make available to the owner or operator of the
12 facility a complete written, detailed rationale for disapproval including
13 recommendations for correcting unacceptable parts of the plans.

14 E. Any change, modification or other deviation from approved plans
15 shall be approved by the director before implementation.

16 F. The director may suspend, amend, withdraw, condition or revoke
17 approval to operate a solid waste facility if the director determines that
18 the facility is in violation of any rule, standard or guideline adopted by
19 authority of this chapter. Action taken by the director under this
20 subsection shall conform with title 41, chapter 6.

21 G. Beginning January 1, 1993, the following operations are exempt
22 from the provisions of this article unless the operations involve
23 materials that are required to have a special waste facility plan approval
24 pursuant to section 49-857:

25 1. Reclamation of land through the introduction of landscaping
26 rubble or inert material.

27 2. Material produced in connection with a mining or metallurgical
28 operation.

29 3. Agricultural on-site disposal as provided in section 49-766.

30 4. Solid waste transfer, recycling or any other use in a facility
31 with a capacity that is eighty cubic yards or less total capacity per site
32 that does not involve permanent storage, treatment or disposal of solid
33 waste.

34 5. Application of solid waste to agricultural land as fertilizer or
35 other beneficial soil amendment.

36 6. Receipt of inert material.

37 7. Application of effluent as defined in section 45-101.

38 8. Application or release of return flows from irrigated
39 agriculture.

40 9. Use, storage, treatment or disposal of by-products of regulated
41 agricultural activities as defined in section 49-201 that are subject to
42 best management practices under section 49-247 or by-products of
43 livestock, range livestock and poultry, as defined in section 3-1201, or
44 pesticide containers regulated pursuant to title 3, chapter 2, article 6.

45 H. Beginning January 1, 1993, the director shall collect from the
46 applicant on approval of the plan a reasonable fee based on the state's
47 total costs in processing the plan. The director may amend an existing
48 rule or adopt a new rule to establish criteria for those costs. That rule

making is exempt from title 41, chapter 6, except that the director shall provide for reasonable notice and a hearing.

Sec. 2. Section 49-767, Arizona Revised Statutes, is amended to read:

49-767. Solid waste facilities; permission; notice of site to property owners; hearing; exemption

A. Any agency or political subdivision of this state which is required to select a possible permanent site for a facility designed to permanently store, treat or dispose of solid waste shall not select a site without obtaining approval of the city or town if the proposed permanent site is located within such city or town or the approval of the county in which the proposed permanent site is located if the proposed permanent site is located in the unincorporated area of the county.

B. A facility designed to permanently store, treat or dispose of solid waste shall not be issued a permit pursuant to section 49-241, subsection A, or receive a plan approval pursuant to section 49-762 or be placed on any site if either ANY of the following apply:

1. An irrigation grandfathered right created pursuant to title 45, chapter 2, article 5 is appurtenant to all or any part of the site.

2. Any part of that facility is within one-half mile of a one hundred year floodplain that has one hundred year flows in excess of twenty-five thousand cubic feet per second, as determined by the federal emergency management agency.

3. THE PROPOSED FACILITY HAS NOT RECEIVED THE FORMAL APPROVAL OF THE GOVERNING BODY OF EVERY CITY, TOWN AND COUNTY THAT IS LOCATED WITHIN A TWO MILE RADIUS OF THE OUTER BOUNDARIES OF THE PROPOSED PERMANENT SITE. FORMAL APPROVAL OF THE GOVERNING BODY SHALL BE EVIDENCED BY A COPY OF A DULY ENACTED RESOLUTION OF THE GOVERNING BODY THAT SPECIFIES APPROVAL FOR THAT SPECIFIC SITE.

C. Subsection B, paragraph 2 of this section does not apply to a site used solely for any of the following:

1. Reclamation of land through the introduction of landscaping rubble or inert material.

2. Material produced in connection with a mining or mineral processing operation.

3. Agricultural on-site disposal as provided in section 49-766.

4. Solid waste transfer, OR recycling or any other use which does not involve permanent storage, treatment or disposal of solid waste.

5. Industrial on-site solid waste storage, treatment or disposal if the facility is not open to the general public and is in existence on the effective date of this amendment to this section SEPTEMBER 27, 1990.

6. Receipt of solid waste for application to agricultural land as fertilizer or other beneficial soil amendment.

D. An agency or political subdivision of this state which is required to select or permit a possible permanent site for any facility designed to permanently store, treat or dispose of any solid waste shall send written notice of the selection of the possible permanent site by first class mail to property owners in the following areas:

1 1. If the proposed permanent site is in an unincorporated area,
2 within a three mile radius of the outer boundaries of the proposed
3 permanent site unless the three mile radius intersects a municipal
4 corporate boundary. In such a case, property owners inside the municipal
5 corporate boundary within one thousand feet of the outer boundary of the
6 proposed permanent site shall be notified as well as those property owners
7 outside the municipal corporate boundary within the three mile radius of
8 the outer boundary of the proposed permanent site.

9 2. If the proposed permanent site is in an incorporated area,
10 within a one thousand foot radius of the outer boundaries of the proposed
11 permanent site.

12 E. The notice required by subsection D of this section shall be
13 mailed to each owner of real property as shown on the list of property
14 owners furnished by the county assessor and the department of revenue.
15 Within fifteen days after a request for such a list, the county assessor
16 and the department of revenue shall furnish to the agency or political
17 subdivision a written list stating the name and address of each owner in
18 the areas specified in subsection D of this section.

19 F. Before a political subdivision makes a final decision on a
20 possible permanent site for a facility specified in subsection A of this
21 section, the political subdivision shall hold a public hearing in the
22 general vicinity of the proposed permanent site, at which interested
23 persons may appear and present their views. The political subdivision
24 shall give notice of the hearing, to include both of the following:

25 1. Publication of notice in a daily or weekly newspaper of general
26 circulation in the area of the proposed permanent site published once each
27 week, beginning at least two weeks before the hearing.

28 2. Mailed notice as provided in subsection D of this section sent
29 at least two weeks before the hearing.

30 G. Before any agency grants a final permit for a facility specified
31 in subsection A of this section, the agency shall:

32 1. If the applicant is a political subdivision, require the
33 applicant to certify that a public hearing concerning a possible permanent
34 site selection for the facility has been held in the general vicinity of
35 the proposed permanent site, at which interested persons were allowed to
36 appear and present their views.

37 2. Hold a public hearing at least thirty days before a final
38 decision concerning the permanent site, if such a hearing is warranted by
39 the public interest, to be held in the general vicinity of the proposed
40 permanent site, at which interested persons may appear and present their
41 views. If such a hearing is held the agency shall send written notice of
42 the selection of the possible permanent site as provided in subsection D
43 of this section.

44 H. This section shall not be construed to apply to any facility
45 which receives funding under section 201 of the federal clean water act,
46 as amended (P.L. 97-117).

1 Sec. 3. Laws 1990, chapter 302, section 2 is amended to read:

2 Sec. 2. Applicability

3 Section 49-767, subsection B, paragraph 2, Arizona Revised Statutes,
4 as amended by this act, does not apply to any of the following:

5 ~~1. a solid waste facility in operation on the effective date of~~
6 ~~this act.~~

7 ~~2. A proposed solid waste facility which has submitted facility~~
8 ~~plans for review and approval to the department of environmental quality~~
9 ~~prior to March 1, 1990.~~

10 ~~3. Lands contiguous to a lawfully operated solid waste facility~~
11 ~~which have been purchased from the state land department prior to July 1,~~
12 ~~1991.~~

13 ~~4. Amendments to the operating plans of existing solid waste~~
14 ~~facilities, including expansion of such facilities, which are submitted to~~
15 ~~the department of environmental quality prior to January 1, 1992.~~